

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

OLIVIA WALLER,)	
)	Case No. 4:03CV00039
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
CITY OF DANVILLE, VIRGINIA et al.,)	
)	By: Jackson L. Kiser
Defendants.)	Senior United States District Judge

Before me are several motions filed by both parties. For the reasons stated in the accompanying Memorandum Opinion, I hereby **GRANT** the Motion for Partial Summary Judgment Motion [69] filed by the defendant officers in their individual capacities.

I **GRANT** Plaintiff's Motion to Strike [80] the statement of Virginia Evans taken by Hugh Wyatt approximately one hour after the incident. I find that this statement was not an excited utterance because it was not made under the stress of excitement caused by the incident.

For the reasons stated on the record, I **GRANT** Plaintiff's Motion to Strike the statement of Virginia Evans taken by Michael Bass and Jack Higginbotham and the statement of Teressa Jennings [80]. I also **GRANT** Defendants' Motion to Strike [87] the statement of Virginia Evans taken by Plaintiff's investigator. Furthermore, I **GRANT** Plaintiff's Motion to Strike the affidavit of Philip Broadfoot [94].

The Clerk is directed to send certified copies of this Order and accompanying Memorandum Opinion to all counsel of record.

Entered this 5th day of July, 2005.

s/Jackson L. Kiser
Senior United States District Judge